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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,338	12/09/2004	Sven Ole Warnaar	2923-672	2944

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EXAMINER

JOYCE, CATHERINE

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

1. Claims 1-17 are pending and are subject to a restriction requirement.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1-4, 5-in-part, 6-7 and 10-17, as drawn to a method for the treatment of cancer comprising co-administering an anti-tumor antibody and a cytokine to a subject in need thereof, wherein the cytokine is an interleukin.

- II. Claims 14, 5-in-part and 8-17, as drawn to a method for the treatment of cancer comprising co-administering an anti-tumor antibody and a cytokine to a subject in need thereof, wherein the cytokine is an interferon.

3. The inventions are distinct, each from the other, because of the following reasons:

A national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept. When claims to different categories are present in the application, the claims will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories: (1) A product and a process specially adapted for the manufacture of said product; or (2) A product and a process of use of said product; or (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or (4) A process and an apparatus or means specifically designed for carrying out the said process; or (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process. If multiple products, processes of manufacture or uses are claimed, the first invention of the category first mentioned in the claims of the application will be considered as the main invention in the claims, see PCT article 17(3) (a) and 1.476 (c), 37 C.F.R.

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1.475(b) and (d). Group I will be the main invention. After that, all other products and methods will be broken out as separate groups (see 37 CFR 1.475(d).)

The inventions listed as Groups I and II do not relate to a single inventive concept because they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I and II appears to be that they all relate to a method of for the treatment of cancer comprising administering an anti-tumor antibody and a cytokine to a subject in need thereof. However, US Patent No. 5,772,997 specifically teach a method of inhibiting tumor cells by treatment of cells with anti-tumor antibodies (abstract) wherein the cells may also be treated with cytokines such as interferons and interleukins (column 7, lines 20-23). Therefore the technical feature linking the inventions of Groups I and II does not constitute a special technical feature as it does not define a contribution over the prior art.

In view of the above, Group I is considered the main invention. After that, all other products and methods have been broken out as separate groups (see 37 CFR 1.475(d).).

4. Further, the following election of species are required.

If applicant elects group I, election of a specific cytokine administration regimen is required from the following list: the cytokine is administered in a substantially constant dose during treatment; the cytokine is administered in a variable dose during treatment.

If applicant elects group II, election of a specific cytokine administration regimen is required from the following list: the cytokine is administered in a substantially constant dose during treatment; the cytokine is administered in a variable dose during treatment.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP 809.02(a).

6. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 of the other invention.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

9. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine M. Joyce whose telephone number is 571-272-3321. The examiner can normally be reached on Monday thru Friday, 10:15 - 6:45.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SUSAN UNGAR, PH.D
PRIMARY EXAMINER

Catherine M. Joyce
Examiner
Art Unit 1642

A handwritten signature in black ink, appearing to read "Susan Ungar", is written over the printed name and title of the Primary Examiner.